

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Holly M. Kapusta,)	
)	C/A No. 2:10-1388-MBS-BM
Plaintiff,)	
)	
vs.)	ORDER
)	
Wings, Etc., LLC and Christopher)	
Roehm,)	
)	
Defendants.)	
_____)	

Plaintiff Holly M. Kapusta brings this action against her former employer, Defendants Wings, Etc., LLC (“Wings”) and the owner/manager of Wings, Christopher Roehm, alleging that she was subjected to sexual harassment in violation of 42 U.S.C. § 2000e-2(a). Plaintiff also asserts state law causes of action. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bristow Marchant.

It appears from the record that Defendants initially were represented by counsel. Defendants jointly filed an answer and counterclaim on July 30, 2010. Counsel for Defendants filed motions to withdraw, which motions were granted by the Magistrate Judge on December 1, 2010 as to Defendant Roehm and on January 3, 2011 as to Defendant Wings. Defendant Roehm represents himself pro se.

The matter came before the Magistrate Judge on motion for summary judgment against Defendant Roehm, which motion was filed by Plaintiff on June 1, 2011. On June 6, 2011, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Defendant Roehm was advised of the

summary judgment procedures and the possible consequences of failing to respond adequately. On July 8, 2011, Defendant Roehm filed a response in opposition to Plaintiff's motion, to which Plaintiff filed a reply on July 20, 2011.

On July 28, 2011, the Magistrate Judge issued a Report and Recommendation in which he recommended that Plaintiff's motion be denied and that Defendant Roehm be allowed to engage in discovery and defend the action. No party filed objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. Plaintiff's motion for summary judgment (Entry 47) is **denied**. The matter is recommitted to the Magistrate Judge for further pretrial handling.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

August 17, 2011